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CONTRIBUTORY NEGLIGENCE—CHILDREN—A child 5 years, 5 months of age was crossing a street on a tricycle when it was struck by a street car which was moving too rapidly. *Held,* that a child of this age was incapable of contributory negligence, as a matter of law. *Love* v. *Detroit J. & C. Co.* (Mich. 1912), 19 Det. Leg. News, 332.

In the recent case of *Purcell* v. *Boston Elevated Ry.* (Mass. 1912), 97 N. E. 626, it was held that the contributory negligence of a child 6½ years of age was a question of fact for the jury. As a rule, no definite age is prescribed at which a child must arrive before it can be charged with contributory negligence. *Stone* v. *Dry Dock Co.* 115 N. Y. 104. The usual test is that a child is held to such a degree of care as might reasonably be expected of one of his age and mental capacity. *Baker* v. *F. & P. M. R. R. Co.,* 68 Mich. 90; note 10 L. R. A. 655. Everywhere, a person of 14 years is *prima facie* capable of contributory negligence. 1 SHEARMAN & REDFIELD, NEGLIGENCE, Ed. 5, § 73a. Some courts have adopted the common law rule with reference to the criminal responsibility of children, holding that those under 7 are, as a matter of law, incapable of contributory negligence, those between 7 and 14 are *prima facie* incapable, and those over 14 are *prima facie* capable. *Pratt Coal and Iron Co.* v. *Brawley,* 83 Ala. 371; *I. C. R. R.* v. *Jernigan,* 198 Ill. 297. In New York, persons over 12 are *prima facie* capable, and those under that age are *prima facie* incapable. *Tucker* v. *Ry. Co.,* 124 N. Y. 308; *Gerber* v. *Boorstein,* 113 App. Div. 808. Courts have held very young children capable of contributory negligence as a matter of law. It has been held that a child 4 years, 5 months of age is not, as a matter of law, incapable of contributory negligence. *Ryder* v. *Mayor etc.* of N. Y., Super. Ct. (18 Jones and S.) 220. Likewise a child of 5 years, 6 months. *Hayes* v. *Norcross,* 162 Mass. 546; also a child of 5 years, 5 months. *Clinton* v. *Boston Beer Co.,* 164 Mass. 514. In *Hayes* v. *Norcross, supra,* the court went so far as to hold the child guilty of contributory negligence as a matter of law. In Maryland, a child of 5 years, 9 months was held guilty of contributory negligence as a matter of law. *McMahon* v. *N. Cent Ry. Co.* 39 Md. 438. These seem to be extreme cases. Opposed to them, it has been held that a child of 6 years cannot be declared, as a matter of law, guilty of contributory negligence. *Mackey* v. *Vicksburg,* 64 Miss. 777; *McVoy* v. *Oakes,* 91 Wis. 214; *Schnur* v. *Citizens' Traction Co.,* 153 Pa. 29; *Central Trust Co.* v. *Wabash etc. Ry Co.* 31 Fed. 246. Other states, besides those adopting the criminal law rule, have held children of seven years incapable. *Texas & Pacific Ry. Co.* v. *Fletcher,* 6 Tex. Civ. App. 736; The *P. F. W. & Ch. Ry. Co.* v. *Vinings Adm'r.,* 27 Ind. 513 (treated as legally incapable); *Flanagan* v. *People's Pass. Ry. Co.,* 163 Pa. 102 (7½ years dictum).

CONVEYANCING—COVENANTS—CONSTRUCTION OF "BUSINESS" IN RESTRICTIVE COVENANT.—Plaintiff and defendant corporation are owners of neighboring lands, all holding under deeds with covenants prohibiting the use of the premises for certain specified gainful and profit-making activities, and "for any other trade or business, dangerous or offensive to the neighboring inhabitants." Defendant proposes to establish an orphan asylum on its premises, conducted for and by charity, and plaintiffs ask for an injunction. *Held,* that

the word "business," following the above enumeration, did not forbid the use for charitable asylum. *Easterbrook* v. *Hebrew Ladies Orphan Society.* (Conn. 1912) 82 Atl. 561.

The rules adopted in this case are those generally used in the construction of restrictive covenants. The more common meaning of disputed words is to be taken as the true expression of the intent of the parties, unless special circumstances point otherwise. *McWilliams* v. *Martin,* 12 Serg & R. 269. *Hall* v. *Rand,* 8 Conn. 560; *Hawes* v *Smith,* 12 Me. 429. *Robertson* v. *French,* 4 East 135; *Trowbridge* v. *Dean,* 40 Mich. 687. 17 AM. AND ENG. LAW, Ed. 2 p. 11. The generally accepted definition of the word "business" is "the pursuit of an occupation or employment as a livelihood or source of profit." *Trustees of Columbia College* v. *Lynch,* 47 How. Pr. 273; *Beckler* v. *Guenther,* 121 Iowa 419, 96 N. W. 895. *Harris* v. *State,* 50 Ala. 127; *Goddard* v. *Chaffee,* 2 Allen 395; 5 AM. AND ENG. ENCY. ED. 2, p. 72. When a particular enumeration of words is followed by general terms or words, the latter are to be understood as limited in scope and application by the character and quality of the former *City of St. Joseph* v. *Porter,* 29 Mo. App. 605; *White* v. *Ivey,* 34 Ga. 186; *Rich* v. *Lord,* 18 Pick 322; *State* v. *Pemberton,* 30 Mo. 376; *Jackson ex dem Rosevelt* v. *Stackhouse,* 1 Cow. 122. *Hickey* v. *Taaffe,* 99 N. Y. 204. *Pardee's Appeal,* 100 Pa. 408, 17 Am. and Eng. ENCY. LAW, ED. 2, p. 6. Furthermore, since a restrictive covenant is in derogation of a party's common law right to use his land as he pleases, such restrictions are not to be extended by implication. *Kitching* v. *Brown,* 180 N. Y. 414; *Duryea* v. *New York,* 62 N. Y. 592. JONES, "REAL PROPERTY AND CONVEYANCING," § 735. Finally, where any doubt remains as to the meaning of the language employed, it will be construed against the restrictive covenant rather than in its favor. *Clark* v. *Jammes,* 87 Hun 215; *Kitching* v. *Brown, supra; Duryea* v. *New York, supra.* In a majority of the cases cited by the dissenting Justice the general words, such as "trade or business," in the particular covenants considered were not limited by any preceding enumeration, and are distinguishable from the principal case for that reason. *Bramwell* v. *Lacy,* 10 Ch. Div. 691; *Doe, Lessee* v. *Keeling,* 1 M.&S. 100; *Rolls* v. *Miller,* 27 Ch. Div. 71; *Semple* v. *Schwartz,* 130 Mo. App. 65; *Rowland* v. *Miller,* 139 N. Y. 93. In cases where the general words did follow an enumeration, the particular facts in each instance were clearly within the restrictions imposed. *Barrow* v. *Richard,* 8 Paige 351; *Haskell* v. *Wright,* 23 N. J. Eq. 389.

CORPORATIONS — DIRECTOR'S MEETINGS — EFFECT OF SURPRISE, TRICK, OR FRAUD IN SECURING A QUORUM.—The by-laws of the company provided that regular meetings of the board of directors should be held at the office of the company on the first Monday of every month at 10 o'clock a. m., but in two years only two of the meetings had been held at the regular time. At the time provided in the by-laws for the regular meeting, two of the five directors went to the office of the president, who was also a director and whose office was also the office of the company, and finding him there on other business held a meeting against his will, and without his participation made and